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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,408	03/17/2004	Jeffrey D. Carnevali	NPI-023	3835
7590 Charles J. Rupnick PO Box 46752 Seattle, WA 98146		05/16/2007	EXAMINER MARSH, STEVEN M	
			ART UNIT 3632	PAPER NUMBER
			MAIL DATE 05/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/802,408

Applicant(s)

CARNEVALI

Examiner

Steven M. Marsh

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the fourth office action for U.S. Application 10/802,408 for a Configurable Mounting Bracket filed by Jeffrey Carnevali on March 17, 2004. Claims 1-25 are pending.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant claims a "substantially uniformly solid and indivisible cross-section", but it is unclear how a cross-section is divisible or indivisible. The claim is being examined to the best extent possible.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,684,822 to Odin in view of U.S. Patent 6,631,877 B1 to Crain et al. Odin discloses a mounting bracket with a plurality (three) of permanently bendable cylindrical,

solitary, uniformly continuous solid support rods (4 and 6), with first (6) and second (4) end portions, and a substantially uniform cross-section extended uniformly between the first and second end portions. There is a means (5) for securing one or more of the second end portions of the plurality of support rods relative to an external surface in a fixed tripodal arrangement and a means (1) for fixing an external device to the clamping means. There is a means for resisting relative slipping of one or more of the second end portions of the plurality of support rods relative to an external surface (the material the legs are manufactured from). There is also a flexible sheath (16) substantially covering each of the plurality of permanently bendable support rods and the rods are formed of a steel material. Odin does not specifically disclose support rods formed of aluminum or the specific diameter of the rods. However, the specific diameter (size) is a matter of design preference and it would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized a known metal such as aluminum as a matter of design preference.

Odin does not disclose a means for clamping the first end portions of the support rods in a fixed arrangement. Crain et al. discloses a mounting bracket with a plurality of support rods (28) and a means (64 and 70) for clamping the first end portions of the support rods in a fixed arrangement. The rods are clamped between an external collar (64) and an internal wedge (70), with a lengthwise portion of each first end portion clamped in a lengthwise cylindrical cavity (or relief groove, 72) formed between the external collar and internal wedge. The clamp taught by Crain et al. is designed for two rods, but it would be obvious to modify the collar and wedge to support three rods. It

would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a clamping arrangement such as the one taught by Crain et al., at the top of the mounting bracket taught by Odin, for the purpose of providing a secure means for securing the rods to a mounting arrangement.

Claims 16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odin in view of Crain et al., and in further view of U.S. Patent 6,685,385 B1 to Ledingham. Odin in view of Crain et al. does not disclose grooves formed in the in an internal surface of the collar to complement the grooves formed in the external surface of the wedge. Ledingham discloses providing complementary grooves on opposing sides for clamping a cylindrical rod between two surfaces. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a complementary groove in the internal surface of the external collar, for the purpose of securely clamping a cylindrical rod between the collar and an internal wedge with an external groove.

### ***Response to Arguments***

Applicant's arguments filed October 6, 2006 have been fully considered but they are not persuasive. Applicant first argues that Odin does not disclose "solitary" support rods. However, each rod is a single rod and therefore "solitary". Applicant also argues that the spring and wire winding parts cannot form a substantially uniform cross-section. However, uniform is defined as identical or consistent. The cross-section of the rods taught by Odin are substantially consistent (see figure 2) because the majority of the rod

has a consistent cross-section with the spring and wire winding. The spring and wire winding are not support rods, but they are part of the support rod.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Examiner disagrees that Odin teaches away from utilizing a clamping means for fixing the rods and Crain is merely used as a teaching for clamping rods in a fixed arrangement.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., an outer portion made of a solid material) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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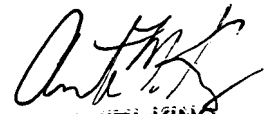
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

SM

Steven M. Marsh

May 13, 2007

  
ANITA KING  
PRIMARY EXAMINER